NO. 82-268

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

FIRST PENNSYLVANIA BANK, N.A.,
Appellant

v.

LANCASTER COUNTY TAX CLAIM BUREAU,
Appellee

and

DELLA BECKER,
Appellee

On Appeal from the Supreme Court of the
Commonwealth of Pennsylvania

MOTION OF APPELLANT FIRST PENNSYLVANIA BANK, N. A.,
TO DEFER CONSIDERATION OF ITS JURISDICTIONAL STATEMENT

First Pennsylvania Bank, N.A., Appellant in No. 82-268, requests that the Court defer consideration of its Jurisdictional Statement until such time as the Court rules on the appeal in Mennonite Board of Missions, Inc. vs. Adams, 427 N.E. 2d. 686 (Ind. Ct. App. 1981), prob. juris. noted, No. 82-11, (U.S. Sup. Ct., October 12, 1982). The reasons for this request are:

1. The instant appeal, and the appeal in Mennonite Board of Missions, Inc. vs. Adams raise identical issues as to the constitutionality of state pre-tax sale notice statute provisions that do not provide for adequate due process notice to a mortgagee of an impending tax sale which has the effect of divesting the mortgagee of a valuable recorded mortgage, such notice statutes thus being repugnant to the Fifth and Fourteenth Amendments of the United States Constitution.

2. The Indiana and Pennsylvania state pre-tax sale notice statutes both provide that, with respect a mortgagee, the name and address of which is a matter of public record, notice of

an impending tax sale which has the effect of divesting the mortgagee of its valuable recorded mortgage need only be posted and published and need not be mailed to such mortgagee. Ind. Code §6-1.1-24-3 (1976); 72 Pa. Cons. Stat. Ann. §5860.602 (Purdon 1968).

3. Under both the Indiana and Pennsylvania statutes, only owners of the real property upon which delinquent taxes are owing must be provided with notice by mail of an impending tax sale. Ind. Code §6-1.1-24-4 (1976); 72 Pa. Cons. Stat. Ann §5860.602 (Purdon 1968).

4. This Court noted probable jurisdiction in Mennonite Board of Missions, Inc. vs. Adams, No. 82-11, on October 12, 1982, and scheduled the case for full briefing and oral argument.

5. Because of the identity of the issues involved, Appellant First Pennsylvania Bank, N.A., respectfully suggests that the Court defer action on Appellant's Jurisdictional Statement until the Court rules on the merits on the appeal in Mennonite Board of Missions, Inc. vs. Adams, No. 82-11.

Respectfully submitted,

RICHARD M. SHUSTERMAN
(Counsel of Record)
Attorneys for Appellant

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CERTIFICATE OF SERVICE

I hereby certify that I this day served the foregoing Motion to Defer Consideration of Appellant's Jurisdictional Statement upon the parties below, at the addresses indicated, by first-class United States mail, postage pre-paid, pursuant to U.S. Sup. Ct. Rules 28.3 and 28.4(c). I hereby further certify that all parties required to be served have been served hereby, in accordance with U.S. Sup. Ct. Rule 28.5.

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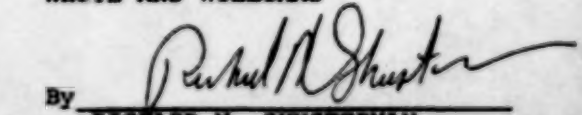
By 
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DATED: October 22, 1982